

HOUSE BILL 3247
By McDonald

AN ACT to amend Tennessee Code Annotated, Title 48 and Title 66, relative to liability for officers of non-profit corporations.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 48-58-601(c), is amended by designating the following existing language as subdivision (1):

All directors, trustees or members of the governing bodies of nonprofit cooperatives, corporations, clubs, associations and organizations described in subsection (d), whether compensated or not, shall be immune from suit arising from the conduct of the affairs of such cooperatives, corporations, clubs, associations or organizations.

SECTION 2. Tennessee Code Annotated, Section 48-58-601(c), is further amended by designating the following existing language as subdivision (3):

Notwithstanding other provisions of this subsection to the contrary, all directors, trustees or members of the governing bodies of nonprofit cemetery corporations, associations and organizations referred to in subdivision (d)(6) shall be immune from personal liability only if such cemetery corporations, associations or organizations carry liability insurance coverage in an amount to be determined by the department of commerce and insurance; provided, that such requirement shall not apply in any county having a population of not less than six thousand (6,000) nor more than six thousand one hundred twenty-five (6,125) according to the 1980 federal census or any subsequent federal census.

SECTION 3. Tennessee Code Annotated, Section 48-58-601(c), is further amended by designating the following existing language as subdivision (4):

Nothing in chapters 51-68 of this title shall be construed to grant immunity to the nonprofit cooperative, corporation, association or organization.

SECTION 4. Tennessee Code Annotated, Section 48-58-601(c), is further amended by deleting the language and punctuation, "Such immunity from suit shall be removed when such conduct amounts to willful, wanton or gross negligence.", and substituting instead the following language and punctuation as subdivision (2):

Such directors, trustees or members shall not be immune from suit when such conduct amounts to willful, wanton or gross negligence. Such directors, trustees or members shall be held personally liable when such willful, wanton or gross negligence includes mishandling of funds belonging to the corporation. In addition, when the court finds such directors, trustees or members liable for willful, wanton or grossly negligent mishandling of corporation funds, the court shall impose a fine not to exceed one thousand dollars (\$1,000) for each instance of mishandling of funds.

SECTION 5. This act shall take effect July 1, 2004, the public welfare requiring it.